



SOCIAL SECURITY ADMINISTRATION

20 CFR Part 416

[Docket No. SSA-2011-0104]

RIN 0960-AH45

Electronic Interim Assistance Reimbursement Program

AGENCY: Social Security Administration.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We reimburse States that provide interim assistance to Supplemental Security Income (SSI) claimants under our interim assistance reimbursement (IAR) program. We provide this reimbursement from the SSI recipient's initial retroactive SSI payment. On November 20, 2010, we began using an electronic Interim Assistance Reimbursement system (eIAR) to streamline the way we process reimbursements to the States. The eIAR process replaced our prior paper-based process with an electronic one, and greatly reduced our and the State's involvement in manually processing IAR cases. This electronic system did not change the amount of payments we make to States and SSI recipients. We propose to revise our rules about how we administer the IAR process to reflect the electronic process. We also made minor language changes and reorganized the sections for clarity.

DATES: To ensure that your comments are considered, we must receive them no later than [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL

REGISTER].

ADDRESSES: You may submit comments by any one of three methods—Internet, fax, or mail. Do not submit the same comments multiple times or by more than one method.

Regardless of which method you choose, please state that your comments refer to Docket No. SSA-2011-0104 so that we may associate your comments with the correct regulation.

CAUTION: You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as Social Security numbers or medical information.

1. Internet: We strongly recommend this method for submitting your comments. Visit the Federal eRulemaking portal at <http://www.regulations.gov>. Use the Search function of the webpage to find docket number SSA-2011-0104 and then submit your comment. Once you submit your comment, the system will issue you a tracking number to confirm your submission. You will not be able to view your comment immediately as we must manually post each comment. It may take up to a week for your comment to be viewable.

2. Fax: Fax comments to (410) 966–2830.

3. Mail: Address your comments to the Office of Regulations and Reports Clearance, Social Security Administration, 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401.

Comments are available for public viewing on the Federal eRulemaking portal at <http://www.regulations.gov> or in person, during regular business hours, by arranging with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Tema Friedman, Office of Retirement and Disability Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, (410) 965-8979. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213, or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION:

Background

To be eligible for benefits from the SSI program, a person must be age 65 or older, blind, or disabled; have low income; and have limited resources.¹ We determine who is eligible to receive SSI benefit payments, and we pay SSI recipients.² If we determine that a claimant is eligible to receive SSI benefits, we pay him or her based on

¹ Sections 1601 and 1611(a) of the Social Security Act (Act).

² Section 1602 of the Act.

the effective date of the application.³

Some States have programs that provide interim assistance payments to their residents while we review their SSI applications.⁴ The payments provide immediate financial help to residents with low income and limited resources to help pay for basic needs, such as food, clothing, and shelter. Each State that runs an assistance program has its own requirements that its residents must meet to be eligible to receive interim assistance.

We reimburse a State for its interim assistance payments to an eligible claimant if the State has both an IAR agreement with us and a written authorization from the claimant.⁵ We base the calculation of the reimbursement amount to the State on IAR rules discussed in these regulations. For this reason, we do not always repay the State for all of the interim assistance paid to each claimant. We consider the facts for each SSI claim and calculate the reimbursement amount based on those facts. For example, we do not reimburse a State for the interim assistance it pays to a claimant if we deny the SSI claim, or if the claimant does not receive both interim assistance and SSI benefit payments for the same month. We can reimburse the State only up to the amount of the claimant's initial retroactive SSI benefit payment available for reimbursement.⁶ In addition, we do not reimburse a State if the source of the interim assistance is a type of payment that the

³ Section 1611(c) of the Act.

⁴ As of December 1, 2012, 34 States and the District of Columbia participate in the IAR program.

⁵ Section 1631(g) of the Act.

⁶ An initial retroactive SSI benefit payment includes all retroactive SSI money due the claimant after we compute the first payments based on an approved SSI claim. Once we have sent an IAR payment to a State, we cannot send the State any additional reimbursement from any subsequent retroactive SSI benefit payment that we may make to the claimant based on a recomputation we might do for the months in the IAR period. We will send that subsequent retroactive SSI benefit payment, if any, to the claimant.

Act prohibits us from reimbursing.⁷

Our IAR agreement with a State must include certain provisions to be valid.⁸ The IAR agreement affirms that we agree to repay the State for some or all of the interim assistance the State provides. It specifies the length of time that the IAR agreement is in effect and the procedure for how we reimburse the State. This agreement also includes information that the State must include in the notice that it sends to recipients of interim assistance within 10 working days of receiving our reimbursement.

A claimant's written authorization allows us to withhold his or her retroactive SSI benefit payment and reimburse the State for the interim assistance it paid the claimant. The authorization becomes effective when we receive it or when we receive an electronic notice from the State that it received the authorization.⁹ The authorization remains in effect until we make the first recurring monthly SSI benefit payment; the State and the claimant both agree to end it or it expires; or we make a determination or decision about the claim and the claimant does not file a timely appeal.¹⁰ If a claimant files a timely appeal of our determination or decision, the authorization remains in effect until we make a final determination or decision on the claim.

⁷ See section 1631(g)(3) of the Act.

⁸ See section 1631(g)(4) of the Act.

⁹ We may consider the date that the authorization is effective to be the protective filing date if the claimant applies for SSI benefits within 60 days of the date the State received the authorization or the date you signed the authorization if later than the State signed. 20 CFR 416.340.

¹⁰ The first recurring monthly SSI benefit payment is the regular monthly payment due to the claimant on a continuing basis. Usually we send the first recurring monthly SSI benefit payment at the same time that we send the IAR to a State.

The IAR provisions also apply to individuals who receive SSI benefit payments but are suspended or terminated from the program. Participating States may provide interim assistance to these individuals while we review their claims. If we reinstate the suspended or terminated SSI benefit payments, we will reimburse the State in the same manner described above. The same requirements for the IAR agreements and authorizations apply as well.

Prior Reimbursement Method

Prior to November 20, 2010, we had two methods of reimbursing the State and paying the recipient, both of which required manual action. In most cases, we would send a recipient's entire first SSI retroactive payment to the State that provided the interim assistance if there was an IAR agreement and authorization in effect. The State would determine how much of the first SSI benefit payment it would keep as reimbursement for its interim assistance payments. The State would then send the remaining amount of the payment to the SSI recipient.¹¹ In the remaining cases, the State calculated how much we should reimburse it. After reimbursing the State, we paid any outstanding amount to the SSI recipient using regular SSI payment rules.¹² This manual process was labor-intensive, required many paper forms, and was increasingly difficult to administer as staff resources diminished.

¹¹ If the State could not pay an SSI beneficiary, such as when a beneficiary died or could not be located, the State would refund the excess amount to us. See 20 CFR part 416 subpart E.

¹² For IAR cases, SSI payment rules may include paying fees to the beneficiary's attorney, paying some of the beneficiary's retroactive SSI payments in installments instead of in one lump sum, or depositing some of an eligible child's retroactive SSI benefit payments into a dedicated account.

Prior to November 20, 2010, if a recipient wanted to appeal the amount of reimbursement sent to the State, the recipient requested a hearing before the State regarding the amount the State claimed for reimbursement or the amount the State paid him or her. A recipient could also appeal to us and receive a hearing regarding the total amount of retroactive SSI benefit payments we withheld.

Current Reimbursement Method

On November 20, 2010, we began using eIAR to manage the IAR process more efficiently. Based on input from the State, eIAR automatically calculates the months a State is due reimbursement from the recipient's first retroactive SSI payment and the reimbursement amount. eIAR provides the information we need to make the payments to the State and the recipient. As part of eIAR, we changed how we reimburse the State from the SSI recipient's first retroactive payment and how the claimant receives the remaining SSI benefit payments. We now reimburse the State directly based on the amount of the recipient's SSI benefits available for reimbursement. We reimburse the State up to the amount of interim assistance it paid to the recipient, and we pay the SSI recipient the rest using regular SSI payment rules. Because eIAR is an automated process, it significantly reduces the amount of manual work for States and our employees. We are able to reimburse States and pay SSI recipients more quickly. However, eIAR did not change the reimbursement amounts we make to States and SSI claimants.

The eIAR process also changed how we administer the IAR program in other ways. It changed certain provisions we need in the IAR agreements we have with States. For example, our IAR agreements now provide that we will send reimbursement for the interim assistance paid in a claim to the State's designated financial institution.

Proposed Changes

We propose to revise our current rules about the IAR process in 20 CFR part 416 subparts E and S to reflect how we reimburse States and pay SSI recipients using eIAR. We propose to revise for clarity, § 416.525, which discusses IAR. We propose to reorganize subpart S and revise the regulatory text for clarity and plain language. We propose to revise § 416.1902 and add definitions for "interim assistance reimbursement agreement," "interim assistance reimbursement payment," and "interim assistance reimbursement period." Under the definition of "SSI benefit payment" we also propose to clarify the definition of an interim benefit and that we cannot reimburse a state for interim assistance from provisional benefits as explained in current 20 CFR 416.999(c). We propose to revise § 416.1904 and change the name of § 416.1904. We propose to revise § 416.1906. These changes clarify the regulations based on our experience dealing with the States. We propose to revise § 416.1910 and change the name of § 416.1910. We propose to add § 416.1912.

We propose to revise and rename § 416.1920, while removing and reserving § 416.1922.

Clarity of These Proposed Rules

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your comments on how to make them easier to understand.

For example:

- Would more, but shorter, sections be better?
- Are the requirements in the rules clearly stated?
- Have we organized the material to suit your needs?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rules easier to understand?
- Do the rules contain technical language or jargon that is not clear?
- Would a different format make the rules easier to understand, such as

grouping and order of sections, use of headings, or paragraphing?

Regulatory Procedures

Executive Order 12866, as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that this NPRM does not meet the criteria for a significant regulatory action under

Executive Order 12866, as supplemented by Executive Order 13563. Therefore, OMB did not review it.

Regulatory Flexibility Act

We certify that this NPRM would not have a significant economic impact on a substantial number of small entities because it would affect only individuals and those States that voluntarily enter into a contractual agreement with us. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

Paperwork Reduction Act

This NPRM does not create any new or affect any existing collections and, therefore, does not require OMB approval under the Paperwork Reduction Act.

(Catalog of Federal Domestic Assistance Program No. 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated: November 15, 2013.

Carolyn W. Colvin,
Acting Commissioner of Social Security

For the reasons set out in the preamble, we propose to amend title 20 of the Code of Federal Regulations, part 416, subparts E and S as set forth below:

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND,
AND DISABLED

Subpart E—[Amended]

1. The authority citation for subpart E of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1147, 1601, 1602, 1611(c) and (e), and 1631(a)–(d) and (g) of the Social Security Act (42 U.S.C. 902(a)(5), 1320b–17, 1381, 1381a, 1382(c) and (e), and 1383(a)–(d) and (g)); 31 U.S.C. 3716; 31 U.S.C. 3720A.

2. Revise §416.525 to read as follows:

§416.525 Reimbursement to States for interim assistance payments.

Notwithstanding §416.542, and in accordance with subpart S of this part, we may withhold SSI benefits from an individual and reimburse a State (or its political subdivision) from the withheld benefits for the State's interim assistance paid to the individual.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND,
AND DISABLED

Subpart S—[Amended]

3. The authority citation for subpart S of part 416 continues to read as follows:

Authority: Secs. 702(a)(5) and 1631 of the Social Security Act (42 U.S.C.
902(a)(5) and 1383).

4. Revise §416.1901 to read as follows:

§416.1901 Scope of subpart S.

This subpart explains how we administer the interim assistance reimbursement program. We may pay interim assistance reimbursement to the State if the State enters into an interim assistance reimbursement agreement with us and if you authorize us, in writing, to repay the State. If your State pays you interim assistance, we may withhold your retroactive SSI benefits, including any Federally administered state supplementary payments, to reimburse the State. The State must inform us about the amounts of interim assistance it paid to you. We will identify the months for which we may reimburse the State, determine how much of your retroactive SSI benefits to pay the State, and

reimburse the State for that amount. After we reimburse the State, we will pay you any remaining sum from your retroactive SSI benefits using SSI payment rules.

5. Revise §416.1902 to read as follows:

§416.1902 Definitions.

For purposes of this subpart—

Authorization means your written permission, in a form legally acceptable to us and to the State from which you receive interim assistance, for us to withhold your retroactive SSI benefit payments and reimburse the State the amount of interim assistance due the State.

Interim assistance means the assistance a State gives you, including payments made on your behalf to providers of goods or services, to meet your basic needs. It does not include assistance the State gives to or for another person. Interim assistance does not include assistance payments financed wholly or partly with Federal funds.

Interim assistance reimbursement agreement means our agreement with a State to reimburse the State for the interim assistance it pays to SSI recipients.

Interim assistance reimbursement payment means the amount of money we pay the State, which we determine based on the amount of interim assistance the State paid to you or on your behalf and the amount of SSI retroactive payments available for the

reimbursement. If your available initial retroactive SSI benefit payment is less than the total interim assistance the State paid to you or on your behalf, we will pay the State only a partial amount of the interim assistance the State paid. Reimbursement to the State takes priority over the retroactive SSI benefit payments that may be due you.

Interim assistance reimbursement period means the period for which we may reimburse the State for interim assistance payments the State made to you or on your behalf.

SSI benefit payment means your Federal SSI benefit and any state supplementary benefit we make to you on behalf of a State (see subpart T of this part) under title XVI of the Social Security Act. For purposes of this subpart, SSI benefit payment does not include an emergency advance payment (see §416.520), a payment based upon presumptive disability or presumptive blindness (see §416.931), a provisional benefit (see §416.999(c)), an interim benefit (see §416.1469(d)), or a payment made under the administrative immediate payment procedure.

State for purposes of an interim assistance agreement, means a State of the United States, the District of Columbia, and the Northern Mariana Islands. For all other purposes (e.g., payment, appeals, notices), State also means a political subdivision of any of these.

We, Us, or Our means the Social Security Administration.

You or Your means someone who has applied for or is already receiving an SSI benefit payment(s).

6. Revise §416.1904 to read as follows:

§416.1904 Authorization to withhold SSI benefit payment.

We will withhold your retroactive SSI benefit payment to repay the State the amount of interim assistance the State paid to you or on your behalf if:

(a) We have an interim assistance reimbursement agreement with the State when your authorization goes into effect; and

(b) Your authorization is in effect when we make your first recurring monthly SSI benefit payment.

7. Revise §416.1906 to read as follows:

§ 416.1906 When your authorization is in effect.

(a) When your authorization begins. Your authorization becomes effective when the earliest of the following events occurs—

(1) We receive the authorization; or

(2) We receive notice from the State that it has received your authorization.

(b) When your authorization ends. Your authorization remains in effect until the earliest of the following events occurs—

(1) We make your first recurring monthly SSI benefit payment for your initial claim or, in the case of an authorization effective for a period of suspense or termination, when we make your first recurring monthly SSI payment following the suspension or termination, and subsequent reinstatement of your SSI benefits;

(2) You and the State agree to end the authorization;

(3) We make a determination or decision on your claim and you do not timely file an appeal, as described in subpart N of this part; or

(4) You do not file an application for SSI or timely file an appeal of our determination to suspend or terminate your benefits within 12 months from the authorization begin date described in paragraph (a) of this section.

(c) When we need a new authorization. If your authorization is no longer effective because an event in paragraph (b) of this section occurred, the State must obtain a new authorization from you before we may reimburse the State for interim assistance it gives you. If you timely file an appeal of our determination or decision on your claim as

described in subpart N of this part, we do not need a new authorization from you because your authorization remains in effect until we make a final determination or decision on your claim.

8. Revise §416.1910 to read as follows:

§416.1910 Requirements for an interim assistance reimbursement agreement.

(a) The interim assistance reimbursement agreement defines our obligations and a State's obligations. The agreement says we must repay the State for the interim assistance the State paid to you based on the interim assistance amount claimed by the State and the amount of your retroactive SSI money available to pay the State.

(b) The interim assistance reimbursement agreement must include the following provisions—

(1) You must have received interim assistance from the State and be eligible for a SSI payment for the same month as the interim assistance period as defined in §416.1905.

(2) We will reimburse the State only from your initial retroactive payment for your initial claim (see § 416.1930(a)) or posteligibility claim (see §416.1930(b)).

(3) When, how much, and under which conditions we will reimburse the State for the interim assistance it paid you.

(4) We will send any reimbursement for interim assistance to a State's designated financial institution.

(5) If a State has prepared and cannot stop delivery of its last interim assistance payment to you, we will include the amount of the State's last interim assistance payment in the reimbursement payment.

(6) We will specify the beginning date of the agreement and will automatically renew the agreement for successive periods of one year beginning October 1 of each year. Either we or the State may terminate this agreement at any time upon 30 days written notice to the other party.

(7) When the State must notify us that it has a signed authorization.

(8) The State will send you a notice within 10 working days of receiving the reimbursement from us. The notice will provide—

(i) How much interim assistance the State paid to you;

(ii) That we will notify you about how we will pay the remaining SSI benefit payments, if any, to you; and

(iii) That you have the right to appeal any of the State's actions about interim assistance reimbursement if you disagree with them.

(9) The State must agree to comply with any other regulations that we find necessary to administer the interim assistance reimbursement provisions.

9. Add §416.1912 under the undesignated heading "Interim Assistance Agreements" to read as follows:

§416.1912 When the interim assistance reimbursement period is in effect.

(a) Initial claims. For initial claims, the interim assistance reimbursement period begins with the first month for which you are eligible for SSI benefit payments, and it ends with and includes the month your recurring monthly SSI benefit payment begins.

(b) Posteligibility claims. If we determine that you were eligible for SSI benefit payments during a period when we suspended or terminated your benefits, the interim assistance reimbursement period begins on the day that you are eligible for reinstatement of SSI benefits. The interim assistance reimbursement period ends with and includes the month we make the first recurring monthly SSI benefit payment to you following your period of suspension or termination and subsequent reinstatement of those benefits.

10. Revise §416.1920 to read as follows:

§416.1920 Your appeal rights under this subpart.

(a) Your appeal rights to the State. You have the right to appeal to the State if you disagree with any of the State's actions regarding reimbursement of the interim assistance. You are not entitled to a Federal hearing to appeal the State's actions regarding reimbursement for interim assistance.

(b) Your appeal rights to us. You have the right to appeal to us, in accordance with subpart N of this part—

(1) The amount of your retroactive SSI benefit payments we withheld from you;

(2) The amount of your retroactive SSI benefit payments we sent to the State to reimburse the State for interim assistance it paid to you; and

(3) The amount of your retroactive SSI benefit payments due to you after we reimbursed the State for interim assistance it paid to you.

§416.1922 [Removed and Reserved]

11. §416.1922 is removed and reserved.

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11/25/2013]